

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

MAILED

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**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte MARTIN BRADY

Appeal No. 2001-1477
Application No. 09/228,109

ON BRIEF

Before COHEN, ABRAMS and BAHR, Administrative Patent Judges.
BAHR, Administrative Patent Judge.

ON REQUEST FOR REHEARING

This is a decision in response to appellant's request for rehearing (Paper No. 15) of our decision mailed May 20, 2002 (Paper No. 14) reversing the rejections of claim 10 under 35 U.S.C. § 102 and the rejection of claims 10-13 under 35 U.S.C. § 103. Appellant does not take issue with our decision to reverse these rejections, but does request that we modify our decision by removing footnote 1 on page 3 of that decision, which reads:

Claims 11 and 13 contain an error, in that, consistent with appellant's disclosure, the sheath is a more specific

recitation of the scissors holder, not a distinct element in addition to the scissors holder. Therefore, claims 11 and 13 should be amended to change "further" to --, the scissors holder--.

Appellant's position, in essence, is that, while the sheath 50 could have been characterized as being a part of the scissors holder 58¹, appellant's specification, on page 5, describes the scissors holder or clamp 58 as comprising a pair of cooperating spring metal clamp members 60 and 62. Although the clamp member 62 of the scissors holder 58 is mounted on the cover member 54 which forms the sheath 50, we recognize that the terminology of the specification does not include the sheath as part of the scissors holder. Accordingly, upon reconsideration, we share appellant's view that claims 11 and 13 are, in fact, consistent with the terminology of appellant's specification.

¹ Note, in fact, that the clamp member 62 of the scissors holder 58 is mounted on the sheath 50 and, thus, requires the sheath 50 for assembly on the housing 16 of the appliance 10 so that it can achieve its scissors holding or retaining function.

In light of the above, appellant's request for rehearing is GRANTED, in that we hereby modify our earlier decision by removing footnote 1 on page 3 thereof. No other change is made to the earlier decision. The rejections of claim 10 under 35 U.S.C. § 102 and claims 10-13 under 35 U.S.C. § 103 remain reversed.

GRANTED



IRWIN CHARLES COHEN
Administrative Patent Judge



NEAL E. ABRAMS
Administrative Patent Judge



JENNIFER D. BAHR
Administrative Patent Judge

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